UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

ISO NEW ENGLAND INC.	)	DOCKET NOS. ER13-193-003
	)	ER13-196-002
	)	(not consolidated)

COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

(December 16, 2013)

Pursuant to the notices[1] dated November 18, 2013 issued by the Federal Energy Regulatory Commission ("Commission" or "FERC"), the Massachusetts Department of Public Utilities[2] ("MA DPU") submits these comments in response to the Order No. 1000 ("Order 1000") compliance filing dated November 15, 2013 ("November 15 Filing" or "Filing") by ISO New England Inc. ("ISO-NE") and the Participating Transmission Owners Administrative Committee ("PTOs").[3] While several issues were addressed in the November 15 Filing, MA DPU's comments will focus on the cost allocation method for public policy transmission upgrades. Nothing herein waives any legal or factual claims made by MA DPU in its request for clarification and rehearing that is pending before the Commission. [4]

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1 Docket No. ER13-193-003, ISO New England Inc. and New England Power Pool Participants Committee, Errata Notice Extending Comment Date, (November 18, 2013); Docket No. ER13-196-002, ISO New England Inc. et al., Errata Notice Extending Comment Date (November 18, 2013).

2 The MA DPU is an agency of the Commonwealth of Massachusetts charged with general regulatory supervision over gas and electric companies in Massachusetts and has jurisdiction to regulate rates or charges for the sale of electric energy and natural gas to consumers. MASS. GEN. LAWS c. 164, § 76 et seq. Therefore, MA DPU is a "state commission" as defined by 16 U.S.C. § 796(15) and 18 C.F.R. § 1.101(k).

3 MA DPU, Rhode Island Public Utilities Commission ("RI PUC"), and the Connecticut Public Utilities Regulatory Authority ("CT PURA") filed the "Notice of Intervention and Protest of the Southern New England States" in these dockets on December 10, 2012.

4 MA DPU, RI PUC, CT PURA, The New England States Committee on Electricity ("NESCOE"), the Commissioner of the Connecticut Department of Energy and Environmental Protection, the State of New Hampshire Public Utilities Commission, the Vermont Public Service Board and the Vermont Public

I. INTRODUCTION

For the reasons set forth below, the MA DPU respectfully requests that the Commission approve the cost allocation method for public policy transmission upgrades included in the November 15 Filing. This methodology allocates 70% of the costs on a region-wide load-ratio share basis and 30% of the costs to the regional network load of the states that are the direct beneficiaries because their public policy needs are being addressed by the project. In accordance with Order 1000, the cost allocation method is just, reasonable and not unduly discriminatory because it comports with the applicable regional cost allocation principles. Additionally, the cost allocation method is supported by the New England states that represent approximately 80% of the network load in the region.[5] Further, any public policy transmission upgrade will deliver economic, environmental and other benefits to the entire New England region. This method is similar to other cost allocation methods that have been approved by FERC. Thus, MA DPU urges the Commission to approve the cost allocation method for public policy transmission upgrades in the November 15 Filing as submitted.

Service Department filed the "Request for Clarification and Rehearing of the New England States Committee on Electricity and the Five New England States" on June 17, 2013. MA DPU incorporates by reference its previous filings concerning Order 1000 in these dockets.

[5] The states of Connecticut, Maine and Massachusetts support the cost allocation. The approximate network load for each New England state is follows: Connecticut (26%), Maine (8%), Massachusetts (46%), New Hampshire (9%), Rhode Island (6%), and Vermont (4%).

II. COMMUNICATIONS

The MA DPU requests that the individuals identified below be placed on the Commission's official service list in this proceeding and that all communications concerning this filing and future filings in this proceeding be directed to:

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III. BACKGROUND/PROCEDURAL HISTORY

On June 17, 2010, FERC issued a notice of proposed rulemaking regarding proposed changes to its electric transmission planning and cost allocation requirements. Order 1000, which became effective in October 2011, amends FERC's electric transmission planning and cost allocation requirements for public utility transmission providers. In accordance with FERC requirements, ISO-NE/PTOs submitted a compliance filing on October 25, 2012. On May 17, 2013, FERC issued its order on the Order 1000 compliance filing submitted by ISO-NE/PTOs ("May 17 Order"), which required significant changes to ISO-NE/PTOs' proposal.

Among other things, FERC determined that ISO-NE/PTOs' proposed cost allocation method for public policy transmission upgrades did not comply with the regional cost allocation principles of Order 1000.[6] More specifically, FERC pointed out that the proposal lacked a

[6] May 17 Order at PP 389-397.

clearly defined, transparent cost allocation method that would allow prospective developers and stakeholders to determine how the costs of a proposed project would be allocated.[7]

FERC ordered ISO-NE/PTOs to make an additional filing on September 17, 2013 to comply with its May 17 Order. On July 9, 2013, ISO-NE, the PTOs and the New England Power Pool Participants ("NEPOOL") filed a motion requesting an extension of time to make the additional compliance filing to November 15, 2013, which FERC granted on July 22, 2013.

IV. COMMENTS

A. ISO-NE/PTOs' Cost Allocation Method Satisfies the Order 1000 Regional Cost Allocation Principles

FERC requires each cost allocation method to satisfy six regional cost allocation principles described in Order 1000.[8] The Commission used a principles-based approach because regional differences may necessitate distinctions in cost allocation methods among transmission planning regions.[9] The cost allocation method in the November 15 Filing is just, reasonable and not unduly discriminatory because it comports with all of the applicable cost allocation principles outlined in Order 1000. In addition, it complies with the Commission's directives in its May 17 Order. Therefore, FERC should approve the cost allocation for public policy transmission upgrades as filed.

1. Regional Cost Allocation Principle 1 – Costs Allocated In A Manner Roughly Commensurate with Benefits

The regional cost allocation principle 1 provides:

> The cost of new transmission facilities must be allocated to beneficiaries within the region in a manner at least roughly commensurate with estimated benefits. In determining beneficiaries, a regional planning process may consider benefits including, but not limited to, the extent to which facilities, individually or in the

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7 *Id.*

8 May 17 Order at P 331

9 *Id.*

> aggregate, involve maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting Public Policy Requirements.[10]

The ISO-NE/PTOs' cost allocation method complies with the first cost allocation principle because under the revised Open Access Transmission Tariff ("Tariff") the costs of public policy transmission upgrade projects will be allocated in a way that is roughly commensurate with the benefits. The Tariff links the cost allocation to the benefits the project would deliver. As explained in the November 15 Filing and section IV.C below, public policy transmission upgrades are expected to deliver production cost savings, reliability and resource adequacy benefits, market benefits, environmental benefits, employment and economic benefits and other project-specific benefits to New England. [11]

Accordingly, 70% of the costs will be allocated to all states on a load-ratio share basis in the same manner as regional benefit upgrades.[12] The remaining 30% of the costs will be allocated to the regional network load of each state in direct proportion to the state's share of the public policy planning need that gives rise to the transmission upgrade..[13] NESCOE will attempt to agree on specific MWh or MW quantities in order to allocate 30% of the costs to the states that benefit because their public policy needs are being met by the project.[14] If NESCOE is unable to agree on specific quantities, 30% of the costs will be allocated to the states' share of the public policy planning need that gives rise to the upgrade on a load-ratio basis.[15] Therefore, FERC should approve the cost allocation method because the costs will be allocated in a manner that is roughly commensurate with the benefits.

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10 Order No.1000, FERC Stats. & Regs. ¶ 31,323 at P 622, May 17 Order at PP 333-335.
11 November 15 Filing at 27.
12 *Id.* at 24, Schedule 12.
13 *Id.*
14 *Id.*
15 *Id.*

2. Regional Cost Allocation Principle 2 – No Involuntary Allocation of Costs

The second regional cost allocation principle states that parties that do not receive a benefit from the transmission facilities either now or in the future must not be allocated any of the costs involuntarily.[16] The November 15 Filing explains that to be eligible for regional cost allocation, a public policy transmission upgrade must meet voltage and non-voltage criteria to qualify as a pool transmission facility.[17] Additionally, ISO-NE will apply the "localized cost review" that it uses for reliability and market efficiency projects to public policy upgrades.[18] According to the November 15 Filing, the Commission has determined that these factors indicate that the cost allocation methodology satisfies the second principle.[19]

Further the cost allocation method ties a portion of the costs to each state's share of the public policy planning need. As discussed above, 30% of the costs will be allocated to the state(s) that will benefit directly from the upgrade and 70% of the costs will be allocated on a regional basis. As explained in detail below, any public policy upgrade will be providing significant benefits to the entire region. As such, it is appropriate that 70% of the costs be allocated on a regional basis. Thus, there will be no involuntary allocation of costs to states that do not share in the benefits.

3. Regional Cost Allocation Principle 3 –Use of a Benefit to Cost Threshold

Regional Cost Allocation Principle 3 requires, among other things, that "if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from

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16 May 17 Order at PP 336-337.
17 November 15 Filing at 28.
18 *Id.*
19 *Id.*

cost allocation."[20] The methodology contained in the November 15 Filing does not employ a benefit to cost threshold. Thus, the third cost allocation principle does not apply in this instance.

4. Regional Cost Allocation Principle 4 – No Involuntary Allocation to Other Regions

Regional Cost Allocation Principle 4 "specifies that the allocation method for the cost of a transmission facility selected in a regional transmission plan for purposes of cost allocation must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of the costs."[21] The November 15 Filing comports with this principle because the cost allocation method for public policy upgrades involves the New England region only.

5. Regional Cost Allocation Principle 5 – Cost Allocation Method Must Be Transparent

Regional Cost Allocation Principle 5 provides that the method and data requirements for determining benefits and indentifying beneficiaries for a transmission facility must be transparent so that a stakeholder can determine how they were applied to a proposed transmission facility.[22] As demonstrated in the November 15 Filing, the cost allocation method is described in detail in Schedule 12 of the Tariff. Additionally, the cost allocation method is part of the public policy planning process, which is incorporated in ISO-NE's regional planning process as detailed in Schedule 12 and Attachment K of the Tariff. All this information will be readily available to stakeholders. Therefore, the cost allocation method is transparent in accordance with this principle.

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[20] May 17 Order at P 338.
[21] May 17 Order at P 339.
[22] May 17 Order at P 340.

6. Regional Cost Allocation Principle 6 – Different Cost Allocation Methods for Different Types of Facilities

Regional Cost Allocation Principle 6 allows a transmission planning region to use a different cost allocation method for different types of transmission facilities in a regional transmission plan.[23] In accordance with this principle, the November 15 Filing outlines a specific cost allocation method for public policy transmission upgrades. This cost allocation method is different from the methodologies to be used for reliability and market efficiency projects.

B. The New England States Representing 80% of the Region's Load Support the Cost Allocation Method

The cost allocation methodology for public policy transmission upgrades resulted from extensive discussions among the TOs, the New England states and other stakeholders. The methodology is supported by the states of Massachusetts, Connecticut and Maine. Together these three states comprise approximately 80% of the network load in New England. While consensus among the New England states was not achieved, it is important that the states representing a significant percentage of the region's load support the cost allocation method.

Some other New England states object to the allocation of any of the costs of public policy projects on a regional basis. Because the benefits (see section IV.C below) associated with these projects will be enjoyed by the entire New England region, MA DPU believes it is appropriate that a significant portion of the costs be allocated on a regional basis. Moreover, a cost allocation methodology that does not distribute some of the costs to each state in the region would allow for free-ridership.

[23] May 17 Order at P 341.

In discussing Order 1000 cost allocation reforms, the Commission stated that "[t]ransmission services create an opportunity for free ridership because the nature of power flows over an interconnected transmission system does not permit a public utility transmission provider to withhold service from those who benefit from those services but have not agreed to pay for them. The Commission expressed concern over free ridership in Order No. 890, where it noted that 'there are free rider problems associated with new transmission investment, such that customers who do not agree to support a particular project may nonetheless receive substantial benefits from it.'"[24] The Commission also noted that "[b]eneficiaries in one state are not subsidizing anyone in another state when they are allocated costs that are commensurate with the benefits that accrue to them, even if the transmission facility in question was built in whole or in part as a result of the other state's transmission needs driven by Public Policy Requirements. If no benefits accrue, the cost allocation principles we adopt below would prohibit the allocation of costs to the non-beneficiaries. If benefits do accrue, however, there are no less benefits because Public Policy Requirements played a role in the decision to construct the transmission facility."[25] Thus, MA DPU urges the Commission to approve the cost allocation method as filed.

C. Public Policy Transmission Upgrades Provide Technical, Environmental and Economic Benefits To The Entire Region

MA DPU agrees with the PTOs that since all customers in New England will enjoy a wide range of benefits from a public policy transmission upgrade, it is reasonable to allocate a significant portion of the costs on a region-wide basis. The November 15 Filing points out that FERC and the federal courts have acknowledged that there is a presumption that upgrades to a

[24] Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, Order No. 1000, 136 FERC ¶ 61,051 at P 534 (June 21, 2011).

[25] *Id.* at P 545.

transmission system benefits everyone in an integrated system. [26] According to the Filing, such an approach recognizes the wide range of benefits associated with high voltage lines. These benefits include improved reliability, reduced congestion costs, reduced power losses, greater carrying capacity, reduced operating reserve requirements, reduced air pollutants emissions, employment/economic benefits and improved access to generation. [27] The November 15 Filing also notes that the Commission has recognized that "[t]he New England grid continues to be highly integrated and a much needed reliability or economic transmission facility on one part of New England's grid provides diffuse network benefits to other parts of the grid, both immediately and as benefits change over time."[28]

The November 15 Filing, citing a study by the Brattle Group,[29] identifies numerous potential benefits associated with high-voltage transmission:[30]

- Traditional Production Cost Savings – Production cost savings as traditionally estimated.
- Additional Production Cost Savings – Reduced transmission energy losses; Reduced congestion due to transmission outages; Mitigation of extreme events and system contingencies; Mitigation of weather and load uncertainty; Reduced cost due to imperfect foresight of real-time system conditions; Reduced cost of cycling power plants; Reduced amounts and costs of operating reserves and other ancillary services; Mitigation of reliability-must-run conditions; Sub-optimal system utilization in non-RTO "Day-1" markets.
- Reliability and Resource Adequacy Benefits – Avoided/deferred reliability projects; Reduced loss of load probability or Reduced planning reserve margin.
- Generation Capacity Cost Savings – Capacity cost benefits from reduced peak energy losses; Deferred generation capacity investments; Access to lower-cost generation resources.
- Market Benefits – Increased competition; Increased market liquidity.
- Environmental Benefits – Reduced emission of air pollutants; Improved utilization of transmission corridors.
- Public Policy Benefits – Reduced costs of meeting public policy goals.

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26 November 15 Filing at 25.

27 *Id.* at 25.

28 *Id.* at 25, May 17 Order at P 354.

29 The study was performed for the Working Group for Investment in Reliable and Economic Electric Systems. November 15 Filing at 25.

30 November 15 Filing at 25-27.

- Employment and Economic Development Benefits – Increased employment and economic activity; Increased tax revenues.
- Other Project-Specific Benefits – Examples: storm hardening, increased load serving capability, synergies with future transmission projects, increased fuel diversity and resource planning flexibility, increased wheeling revenues, increased transmission right and customer congestion-hedging value, and HVDC operation benefits.

Like the benefits outlined in the November 15 Filing, MA DPU has identified similar benefits associated with public policy transmission upgrades. MA DPU has stated at stakeholder meetings[31] that a transmission upgrade would lower the locational marginal price for the entire region, produce cleaner air and allow all the states to satisfy requirements associated with Regional Greenhouse Gas Initiatives and promote economic development. Additionally, the overall reliability of the New England grid would be enhanced by providing greater redundancy. As such, MA DPU believes it is appropriate that a significant portion of the costs be distributed on a region-wide basis.

Thus, the Commission should approve the cost allocation method because by allocating a portion of the costs on a region wide basis the method recognizes that the benefits to the highly integrated New England grid will be significant.

D. Cost Allocation Method Is Similar To Other Methods Approved By The Commission

MA DPU believes the 70/30 cost allocation method should be approved because FERC has approved a range of cost allocation methods in Order 1000 proceedings. While the specific details of cost allocation methods may differ, the overall approach of a hybrid 70/30 method is similar to other cost allocation methods approved by FERC.

The Commission accepted the PJM Transmission Owners' ("PJM TOs") hybrid cost allocation methodology for various types of projects, including those that address public policy

[31] NEPOOL's Transmission Committee meeting (October 30, 2013) and Participants Committee meeting (November 8, 2013).

requirements.[32] 50% of the project costs will be allocated to beneficiaries that PJM indentifies and the other 50% will be allocated to all the customers in the region in recognition of the other benefits that the projects provide.[33] PJM Interconnection, L.L.C. ("PJM") will identify reliability transmission needs and economic constraints that result from the inclusion of public policy requirements into PJM's sensitivity analyses.[34] PJM will then allocate the costs of projects that solve the transmission need in accordance with the benefits the projects provide.[35] The Commission found that including public policy requirements in sensitivity analyses comports with Order 1000.[36] Thus, FERC determined that a separate regional cost allocation methodology for transmission projects that satisfy public policy requirements was not necessary. [37]

The Midwest Independent Transmission System Operator, Inc. ("MISO") will allocate 100% of the costs for Multi-Value Projects concerning public policy needs or combinations of economic and/or reliability needs ("MVPs") on a regional basis because the benefits of MVPs are spread broadly across the MISO region.[38] While the Commission determined that MISO needed to make a further compliance filing, the Commission found that the cost allocation methods, which it previously approved, partially complied with the six regional cost allocation principles. [39]

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32 Docket No. ER13-198-000, PJM Interconnection, L.L.C., Order on Compliance Filings (March 22, 2013), 142 FERC ¶ 61,214 at P 441

33 Docket No. ER13-90-000, PJM Transmission Owners Filing dated October 11, 2012, at 8.

34 142 FERC ¶ 61,214 at P 441.

35 *Id.*

36 142 FERC ¶ 61,214 at P 441.

37 *Id.*

38 Docket Nos. ER13-187-000, ER13-187-001, Midwest Independent Transmission System Operator, Inc and the MISO Transmission Owners, Order on Compliance Filings and Tariff Revisions (March 22, 2013), 142 FERC ¶ 61,215 at PP 421, 434-445. In contrast, with respect to Market Efficiency Projects which focus on congestion relief, 20% of the cost will be allocated on a system-wide basis and the remaining 80% will be allocated based on production cost savings across the MISO region.

39 142 FERC ¶ 61,215 at PP 434-435. MISO was required to make a further compliance filing to address issues with a transmission upgrade that is included in a regional system plan and cost allocation for other transmission planning regions.

The cost allocation method in the November 15 Filing is within the range of cost allocation methods approved by FERC and it is consistent with Order 1000 regional cost allocation principles. Accordingly, MA DPU urges the Commission to approve the 70/30 cost allocation methodology for public policy transmission upgrades.

V. CONCLUSION

MA DPU appreciates the opportunity to provide comments to the Commission. For the foregoing reasons, MA DPU respectfully requests that the Commission approve the cost allocation method for public policy transmission upgrades filed by ISO-NE/PTOs that allocates 70% of the costs on a region-wide load-ratio share basis and 30% to the regional network load of the states that are the direct beneficiaries because their public policy needs are being addressed by the upgrade.

Respectfully Submitted,

Massachusetts Department of Public Utilities,

/s/

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Date: December 16, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via electronic mail or first class mail, the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Boston, Massachusetts on this 16th of December, 2013.

/s/ *Cecile M. Fraser*
Cecile M. Fraser